

## **DECISION NOTICE**

### **STACEY CREEK ROAD ACCESS**

Montana Fish, Wildlife & Parks  
Region 7 – Miles City

March 2012

#### **PROPOSAL**

Montana Fish, Wildlife & Parks (FWP) proposes to purchase a permanent road easement, allowing the public to use the Stacey Creek Road to cross 0.4 miles of a private ranch in Powder River County. The road easement would be granted by the owner of the Wood Ranch (a long-time family ranching operation), and the easement would be held by the U.S. Forest Service. The Forest Service administers the public lands of the Custer National Forest along the western end of the Stacey Creek Road, which is referred to by the Forest Service as Beaver-Stacey Road #4769. FWP would be a signatory to the easement, along with the Forest Service and the landowner. In the unlikely event that Forest Service would ever decide to relinquish this road easement, the easement would transfer free of charge to FWP.

FWP purchase of the road easement will have the following important recreational and management benefits, including the following:

- Complete a public road easement extending from the Little Pumpkin Creek county road to the Custer National Forest in the upper Stacey Creek watershed
- Ensure hunter access to thousands of acres of high-quality ponderosa pine habitat along the Tongue River - Pumpkin Creek divide
- Provide for continuous Forest Service management of this 5-mile-long road corridor

FWP's purchase of the Stacey Creek Road Easement would maintain the status quo in terms of public use of the road, but would change the access framework so that such use is by legal right, rather than by permission of the landowner. The result would be continuous and permanent legal access for the Forest Service and the public to drive the length of the Stacey Creek Road, from the Little Pumpkin Creek Road on the east to the national forest land in the upper Stacey-Beaver Creek watersheds to the west. The road easement would not grant any rights to the Forest Service or the public to make recreational use of the surrounding private land.

## **MONTANA ENVIRONMENTAL POLICY ACT (MEPA) PROCESS**

The proposed purchase of the road easement was the subject of an “Environmental Assessment – Stacey Creek Road Access” (the EA), which was released to the public on August 26, 2011, and opened for comment through September 20, 2011. The EA was preceded by a press release issued on August 23.

The EA described the project and analyzed its potential effects on the human and natural environment. The EA indicated that the proposed action of acquiring a permanent road easement on this 0.4-mile section of the existing Stacey Creek Road would have no adverse environmental effect on a short-term, long-term or cumulative basis. Rather, road use subject to the easement conditions would continue the status quo that has resulted from the landowner allowing such use for the preceding decades.

## **SUMMARY OF PUBLIC COMMENTS AND FWP RESPONSE**

FWP received 11 written comments to the environmental assessment, with all but one comment in support of the proposed action. Respondents cited the importance of public access to public land as the reason for their support of the Stacey Creek Road Easement.

The written comment expressing opposition to the road easement focused on potential impacts to adjoining private ranch lands and buildings to the west and concerns that the road easement would improperly restrict the neighboring landowner’s use of the Stacey Creek Road. The comment also questioned the need for the road easement.

FWP to these points responded in a January 23, 2012, letter, noting that acquisition of this 0.4-mile road easement by FWP for the Forest Service would maintain the status quo for public use of this road, rather than being the cause of any increase in road use. That is because the landowner of the proposed easement segment currently allows full public use of this roadway. Further to the west of the proposed easement segment, the road is already managed by the Forest Service under easements that the agency acquired in the 1950s through the 1970s. Established patterns of public and private use on that section of the road are expected to continue.

FWP also noted that the rights to be acquired through the new road easement are in addition to – and do not affect – any pre-existing rights that other parties may have to use the Stacey Creek Road for access to their private land served by the road.

In relation to the need for the easement, FWP pointed out that the Stacey Creek Road serves as the only public-use road that provides access from the east to a 7-mile stretch of national forest land along Tongue River – Pumpkin Creek hydrologic divide. The Liscom Butte Road (located about 3 miles to the north) and the East Fork Otter Creek Road (located about 4 miles to the south) are the closest alternative routes.

The amount of public land which the Stacey Creek Road makes accessible to recreationists traveling from the east is in the range of 5,000 - 7,000 acres, consisting of land in Sections 29, 30, 31 and 32 in T1S, R47E; Sections 24, 25 and 36 in T1S, R46E; Sections 5, 6, 7 and 8 in T2S, R47E; and Section 1 in T2S, R46E. This acreage represents the core land lying in closer proximity to the Stacey Creek Road than to any other public road; an adventurous hunter could use the Stacey Creek Road to access thousands of additional contiguous national forest acres.

## **DECISION**

After careful review of this proposal, and in consideration of the significant public recreational benefits that will derive from FWP's purchase of the Stacey Creek Road Easement, it is my recommendation that Montana Fish, Wildlife and Parks proceed with the proposed purchase of this road easement to provide for public use of this segment of the Stacey Creek Road. The easement will be conveyed to the U.S. Forest Service. In the event the Forest Service no longer wished to retain the easement, it would revert to FWP.

A handwritten signature in black ink, appearing to read 'Brad Schmitz', with a stylized flourish at the end.

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Brad Schmitz, Regional Supervisor  
Montana Fish, Wildlife and Parks  
352 I-94 Business Loop  
Miles City, MT 59301

Date: March 19, 2012